

**Before the  
Federal Communications Commission  
Washington, DC 20554**

<i>In The Matter of</i>	)	
	)	
Universal Service Reform	)	WT Docket No. 10-208
Mobility Fund	)	

**COMMENTS OF  
THE ALASKA TELEPHONE ASSOCIATION,  
ALASKA COMMUNICATIONS AND  
GENERAL COMMUNICATION, INC.**

The Alaska Telephone Association,<sup>1</sup> Alaska Communications,<sup>2</sup> and General Communication, Inc. jointly submit these comments in response to the Federal Communications Commission's ("FCC" or "Commission") April 18, 2011, Public Notice, *Further Inquiry Into Tribal Issues Relating to Establishment of a Mobility Fund* (the "Public Notice").<sup>3</sup>

**Introduction**

In the Public Notice, the FCC seeks further comment on how the Mobility Fund's proposed nationwide reverse auction mechanism can be adapted with respect to Tribal lands that trail national 3G coverage rates. The FCC proposes a couple of methods to develop such a

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<sup>1</sup> The Alaska Telephone Association is a trade association open to incumbent local exchange carriers, competitive local exchange carriers and interexchange carriers serving the state. Its active members are Adak Telephone Utility; Alaska Power & Telephone Company; Arctic Slope Telephone Association Cooperative; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative, Inc.; Cordova Telephone Cooperative; KPU Telecommunications; Matanuska Telephone Association; Nushagak Cooperative, Inc.; OTZ Telephone Cooperative, Inc.; Summit Telephone Company, Inc.; TelAlaska, Inc.; United Utilities, Inc.; and Yukon Telephone Company, Inc.

<sup>2</sup> Alaska Communications includes ACS of the Northland, Inc., ACS of Alaska, Inc., ACS of Fairbanks, Inc., ACS of Anchorage, Inc., ACS Wireless, Inc., and ACS Long Distance, Inc.

<sup>3</sup> *Further Inquiry Into Tribal Issues Relating to Establishment of a Mobility Fund*, Public Notice, WT Docket No. 10-208, DA 11-702 (rel. Apr. 18, 2011) ("Public Notice").

separate track, including providing Tribal governments with an additional specified number of “priority units” for particular parts of their Tribal areas within Tribal lands boundaries, and providing a form of bidding credit to qualified Tribally-owned and -controlled providers.

As Alaskans, we reiterate that the overall Mobility Fund as proposed will not help to bring broadband to Alaska, and the proposed Tribal lands adaptations do not appear to change that result. Furthermore, the Tribal lands definition and support structure proposed in the Public Notice is not appropriate for Alaska because it does not reflect that Congress resolved native claims differently in Alaska than it did in the Lower 48.

**I. The Mobility Fund’s Proposed Nationwide Reverse Auction Mechanism Remains Structurally Skewed Against Low-Density/High-Cost Areas Such as Alaska.**

As the Regulatory Commission of Alaska (“RCA”) and other Alaska commenters have explained repeatedly – including in very recent filings with the Commission related to the proposed Connect America Fund – Alaska’s extreme high costs, demographics, climate and geography make mobile broadband deployment in Alaska much harder to achieve than in the Lower 48.<sup>4</sup>

In addition, as RCA and other Alaska commenters noted, the Mobility Fund proposal would award support to the lowest-cost-per-unit-supported areas through nationwide reverse auctions. Because of Alaska’s undisputed high costs and low population densities, it would do little or nothing to help those portions of Alaska that lack broadband.<sup>5</sup> Areas like Alaska that

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<sup>4</sup> See generally Comments of The Alaska Telephone Association; Comments of Alaska Communications Systems Group, Inc.; Comments of General Communication, Inc.; and Comments of RCA, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, and GN Docket No. 09-51 (filed Apr. 18, 2011).

<sup>5</sup> See generally Comments of The Alaska Telephone Association; Comments of Alaska Communications Systems; and Comments of General Communication, Inc., WT Docket No. 10-208 (filed Dec. 16, 2010); Reply Comments of General Communication, Inc.; Reply

have very low population densities and very high costs – including for middle mile and operating expenses – need substantially more support than the Mobility Fund as proposed could or would provide.<sup>6</sup> Indeed, it is unlikely that broadband deployment will expand beyond existing areas in Alaska, particularly at the FCC's targeted throughput speeds, without support for middle mile services.<sup>7</sup>

Moreover, Alaska's unserved areas have very small populations that a nationwide "support per user" auction predictably would never reach.<sup>8</sup> The Public Notice's Tribal lands Mobility Fund proposals are unlikely to overcome the mathematical realities of low population densities and high costs, whether through "priority units" or bidding credits, and thus could not cure these fundamental deficiencies for low-density/high-cost areas like Alaska.

Furthermore, concentrating "priority units" into a single census block, as the Public Notice contemplates a Tribal entity could do,<sup>9</sup> is unlikely to address situations in which there is widespread lack of 3G or 4G mobile broadband. It is very unlikely that a single island of 3G mobile broadband would be viable even over the short-term, much less the long-term, and we question whether a single island of service within a Tribal area is an appropriate goal.

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Comments of RCA; and Reply Comments of State of Alaska, WT Docket No. 10-208 (filed Jan. 18, 2011).

<sup>6</sup> See Reply Comments of RCA at 7-10.

<sup>7</sup> See Comments of RCA, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45 and GN Docket No. 09-51, at 24 (filed Apr. 18, 2011). ("We believe the lack of affordable middle mile facilities is a key reason broadband deployment is not generally available in the remaining three quarters of the state.").

<sup>8</sup> See Reply Comments of RCA at 3-7.

<sup>9</sup> Public Notice ¶¶ 5, at 2-3.

## **II. The Proposals in the Tribal/Mobility Fund Public Notice Do Not Reflect That Congress Resolved Native Claims Differently in Alaska Than in the Lower 48.**

In the Public Notice, the FCC proposes “a more tailored approach that provides at least some Mobility Fund support for Tribal lands,” by awarding “priority units” to Tribal governments and/or bidding credits to Tribally-owned and -controlled providers.<sup>10</sup> The Public Notice proposes that, for purposes of its Tribal lands Mobility Fund proposals,

“the terms ‘Tribes,’ ‘Tribal,’ and ‘Tribal Governments’ refer to any federally recognized American Indian Tribe or *Alaska Native Village*, Nation, Band, Pueblo, or Community that is acknowledged by the federal government to have a government-to-government relationship with the United States and is eligible for the programs and services established by the United States for Indians.”<sup>11</sup> (emphasis added).

This proposed definition is not appropriate for Alaska, as it does not reflect how Congress resolved Alaska Native land claims.

Congress addressed the land claims of Alaska Natives differently than it did with respect to native land claims in the Lower 48. Alaska claims were settled by Congress in the Alaska Native Claims Settlement Act (“ANCSA”), enacted in 1971. ANCSA divided Alaska into 12 geographical regions, and provided for the establishment of multiple for-profit Alaska Native Village Corporations and a single for-profit Alaska Native Regional Corporation in each region.<sup>12</sup> The Village Corporations own the surface estate of the lands granted to them under ANCSA; each Regional Corporation owns the subsurface estate of the lands granted to the

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<sup>10</sup> *Id.* ¶¶ 2, 5, 7, at 1-4.

<sup>11</sup> *Id.* at 1 n.3.

<sup>12</sup> *See* ANCSA §§ 7-8, 43 U.S.C. §§ 1606-1607.

Village Corporations in its region.<sup>13</sup> ANCSA also granted surface and subsurface lands and other rights directly to the Regional Corporations.<sup>14</sup>

While there are more than 200 Alaska Native entities included on the list of federally recognized tribes updated periodically by the Bureau of Indian Affairs pursuant to the *Tribe List Act*, the listed entities generally are not the Regional or Village Corporations.<sup>15</sup> As a result of ANCSA, Alaska Native villages that have been recognized by the federal government – as opposed to the Village or Regional Corporations – generally do not own land. In this respect, Alaska is very different from areas in the Lower 48 where tribes own and have legislative jurisdiction over particular reservation lands.

### **Conclusion**

As the RCA and various Alaska commenters stated in their comments and reply comments regarding the Mobility Fund, the Mobility Fund as proposed fundamentally will not work for Alaska. Implementation of the Tribal lands proposals in the Public Notice would not change that reality, but rather, would add additional complexity because the proposals do not reflect the Alaska-specific structure for Native land claims that Congress established in ANCSA.

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<sup>13</sup> *See id.*

<sup>14</sup> *See id.*

<sup>15</sup> *See* Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs, 74 Fed. Reg. 40,218-02, 40,222-40,223 (Aug. 11, 2009).

Respectfully submitted,

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/s/

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